

REMARKS

Reconsideration is respectfully requested, for the rejection of the claims as unpatentable over TAKEUCHI et al.

It should be clearly understood that the present invention is concerned with, and only with, the swing speed of a golf club toward the tee, and the sound of a golf club striking a golf ball. These two phenomena produce first and second signals, and when there is coincidence between the first and second signals and the second signal is above a predetermined level, an output signal is produced. Moreover, that predetermined level is varied in accordance with the amplitude of the first signal.

TAKEUCHI has nothing to do with any of this. TAKEUCHI relates solely to monitoring the movement of a golfer's head during a swing. This has nothing to do with the speed of swing of the golf club and has nothing to do with the sound of a golf club striking a golf ball, much less the production of corresponding signals with the relationship of the signals as set forth in our basic claim 10.

The Official Action cites column 2, lines 60-62 of TAKEUCHI et al. as providing disclosure of a "motion sensing means (i.e. equivalent to a radar device) which detects a swing speed of a golf club head towards the tee and produces a first signal corresponding to said speed." This is wrong. Column 2, lines 60-62 refer to the head of the golfer, not the head of the

golf club. This is clear from the remainder of the description and in particular from column 3, line 66.

In TAKEUCHI et al., the motion sensor must be attached to the golfer's body, and specifically to his head (not the club head), to sense the motion of the player's head. This is explicit in column 3, from line 66. See also column 4, line 55 and also column 5, line 24.

Consequently, the "motion sensing means" recited in the Official Action cannot be equivalent to the radar device of the present invention. TAKEUCHI et al. requires attachment to the golfer's head, and will clearly and obviously not work if attached to the golf club. No person, skilled or otherwise, would think that this is possible.

To support a rejection of obviousness, the Examiner must first establish a *prima facie* case of obviousness. As indicated in *The Manual of Patent Examining Procedure* (MPEP), 2142, to establish a *prima facie* case of obviousness, three basic criteria must first be met. First, there must be some suggestion or motivation to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference or references must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art and not

based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q. 2d 1438 (Fed. Cir. 1991).

TAKEUCHI et al. relates to an entirely different aspect of golfing, as set out in the Field of the Invention, namely monitoring and controlling a "head-up" of a golfer's body during the swing. This is in no way connected to the problem identified by the present application and which the present invention seeks to solve.

Secondly, even if the skilled person in the field of the present invention happened to be aware of TAKEUCHI et al., it quite clearly cannot be modified with any reasonable expectation of success in order to achieve the features of claim 10.

Finally, the prior art reference does not suggest all the claim limitations (i.e. the radar device) even if the further suggested modification on page 3 of the Official Action were implemented by the skilled addressee.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success is clearly not found in TAKEUCHI et al., and contentions of the Official Action have no basis in fact or law.

Claims 10-12 are therefore allowable in their present condition and reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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